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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/775,949	02/02/2001	Olivier de Pous	VAL1599P0190US	1510

7590 08/28/2002

ROCKEY, MILNAMOW & KATZ, LTD.
Two Prudential Plaza
Suite 4700
180 North Stetson Avenue
Chicago, IL 60601

EXAMINER

NGO, LIEN M

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 08/28/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/775,949

Applicant(s)

POUS ET AL. *CA*

Examiner

LIEN TM NGO

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 July 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 10-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

1. Applicant's election without traverse of Species I (claims 1-9) in Paper No. 8 is acknowledged.

With respect to applicant's traverse that claim 1 is a generic claim, the examiner disagrees that claim(s) 1 is generic, since one embodiment (fig. 5 and fig. 6) has a support flange, there can be not the generic claim. A generic claim must comprehend within it confines the organization covered of each the species (806.04d). Applicant's claim 1 merely defines a subcombination common both species. However, if an independent claim is readable on both species and is allowable, rejoinder will be permitted as long as no issues are created under 35 U.S.C 112.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: flange "121" in page 7, lines 11 in not shown in the drawing. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

4. Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Corsette et al. (3,248,021). In regard to claims 1-6, Corsette et al. disclose, in figs 1 and 4, an attachment device comprising a ring 14 forming a skirt 21 equipped with attachment means 22, reception means 61, and annular plate which can be moved axially upwards away from the attachment means by a deformable flexible connection (two walls of the groove 75) by pressing the plate on an upper end of a neck of recipient. The deformation connection is formed by a peripheral annular recess or a punch 75 provided in the plate to reduce the plate surface thickness and wherein the flexible connection comprises a plurality of spacers. In regard to claims 7 and 8, the deformation connection is more flexible than the plate (see col. 2, lines 50-56), and the attachment means comprise clip-on lugs 22.

5. Claims 1, 2, 8 and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by VanBrocklin et al. (6,253,941). VanBrocklin et al. disclose, in figs 1 and 2, an attachment device comprising a ring 26 forming a skirt 34 equipped with attachment means 46, reception means 26, and annular plate 30 which can be moved axially upwards away from the attachment means by a

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deformable flexible connection 54, 32 by pressing the plate on an upper end of a neck of recipient. The attachment means comprise clip-on lugs 42, and the attachment device further comprises a hoop 28.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Pierpont, Cater, Van Brocklin et al., Rosa, and Green teach attachment devices.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien Ngo whose telephone number is (703) 305-0294. The examiner can normally be reached Monday through Friday from 8:00 AM to 5:00 PM.

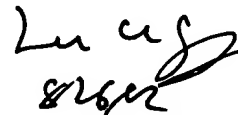
If attempts to reach the examiner by telephone are unsuccessful. The examiner's supervisor, Lee Young, can be reached at (703)308-2572. The Group FAX number is (703) 305-3579.

Any inquiry of a general nature or relating to the status of the application should be directed to the Group receptionist at (703) 308-1148.



Lien Ngo

August 21, 2002



LEE YOUNG

SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700